

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

545I0155

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 59** - 01/27/2003

Introduced by: Senator Napoli and Representative Haverly

1 FOR AN ACT ENTITLED, An Act to transfer from the county register of deeds to the county  
2 treasurer certain administrative duties regarding titles for vehicles and boats.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-3-28 be amended to read as follows:

5 32-3-28. The secretary shall issue the certificate of title in triplicate. One copy shall be  
6 retained by the secretary and the other copy shall be transmitted either by mail or electronically  
7 by computer, postage prepaid, on that day to the county ~~register of deeds~~ treasurer of the county  
8 in which the motor vehicle, trailer, or semitrailer is to be kept. The secretary shall sign the  
9 original certificate of title and deliver the certificate to the owner named on it or as otherwise  
10 directed by the owner. If there are one or more liens on the motor vehicle, trailer, or semitrailer,  
11 the secretary shall properly note the same in the order of their priority on the certificate of title  
12 which shall be delivered or mailed to the owner named on it or as otherwise directed by the  
13 owner. Secured parties, if any, shall be mailed or delivered conspicuous notification of their  
14 security interest as filed and noted on the certificate of title.

15 Section 2. That § 32-3-33 be amended to read as follows:



1        32-3-33. If, after a certificate of title has been issued for a motor vehicle, trailer, or  
2        semitrailer, the county in which it is kept for use shall be changed, then upon application of the  
3        owner, so stating, the secretary may authorize the transfer of the duplicate certificate of title from  
4        the office of the ~~county register of deeds~~ treasurer of the county in which it was formerly kept  
5        to the county where the motor vehicle, trailer, or semitrailer is presently kept. Thereafter the  
6        county ~~register of deeds~~ treasurer of the county in which such duplicate title certificate is  
7        transferred shall perform the duties imposed by this chapter. However, the keeping of a duplicate  
8        certificate of title in the office of the ~~county register of deeds~~ treasurer of a county in which the  
9        motor vehicle, trailer, or semitrailer is not actually kept may not affect the validity of the title or  
10       of any contract, lien, or encumbrance upon the motor vehicle, trailer, or semitrailer described in  
11       the certificate.

12       Section 3. That § 32-3-34 be amended to read as follows:

13       32-3-34. The ~~register of deeds and the~~ county treasurer shall assist in the administration of  
14       this chapter and perform such duties in connection therewith as may be required by the secretary.

15       Section 4. That § 32-3-38 be amended to read as follows:

16       32-3-38. The holder of a mortgage, trust receipt, conditional sales contract, mechanic's lien,  
17       or similar instrument, upon presentation of the certificate of title to the office of the titled owner's  
18       county ~~register of deeds~~ treasurer, together with the fee prescribed by this chapter, may have a  
19       notation of the lien made on the certificate of title. The ~~county register of deeds~~ treasurer shall  
20       enter the notation and the date thereof over the signature of the officer or deputy and the seal  
21       of office. The ~~register of deeds~~ treasurer on that day shall notify the department, ~~which~~. The  
22       department shall note the lien on the state's computer system, if the county ~~register of deeds~~  
23       treasurer has not done so.

24       Section 5. That § 32-3-41 be amended to read as follows:

1        32-3-41. A security interest, mechanic's lien, or similar instrument other than a financing  
2        statement covering a motor vehicle, trailer, or semitrailer if notation of same has been made by  
3        the seller, buyer, owner, holder of the instrument, or an agent of the secretary on the  
4        manufacturer's statement of origin or the manufacturer's certificate of origin, or in the case of the  
5        certificate of title, if a notation of same has been made by the secretary, an agent of the secretary,  
6        ~~the county register of deeds~~, or a county treasurer on the face thereof or if notation of same has  
7        been made by the seller, buyer, owner, holder of the instrument, or agent of the secretary on the  
8        reverse thereof, shall be valid against the creditors of the debtor, whether armed with process  
9        or not, and subsequent purchasers and other lien holders or claimants, but otherwise is not valid  
10       against them.

11       Section 6. That § 32-3-43 be amended to read as follows:

12       32-3-43. The county ~~register of deeds~~ treasurer, upon receipt of a lien or title instrument duly  
13       executed in the manner prescribed by law governing such instruments, together with the fee  
14       prescribed for notation thereof which is nonrefundable, shall notify the holder of the certificate  
15       of title to deliver to the ~~county register of deeds~~ treasurer, within fifteen days from the date of  
16       notice, the certificate of title to permit notation of a lien, and, if necessary, the issuance of a new  
17       certificate of title provided in § 32-3-36. After the notation of lien the ~~county register of deeds~~  
18       treasurer shall deliver the certificate of title to the owner or as otherwise directed by the owner.  
19       The secured party shall be mailed or delivered notification of ~~his~~ the party's security interest as  
20       filed and noted on the certificate of title. The holder of a certificate of title who refuses to deliver  
21       a certificate of title to the ~~county register of deeds~~ treasurer for the purpose of showing the lien  
22       on the certificate of title within fifteen days from the date when notified to do so by the ~~county~~  
23       ~~register of deeds~~ treasurer, is liable for damages to the lien holder for the amount of damages the  
24       lien holder suffered by reason of the holder of the certificate of title refusing to permit the

1 showing of the lien on the certificate of title.

2 Section 7. That § 32-3-44 be amended to read as follows:

3 32-3-44. If a lien is discharged, the lien holder shall execute a release within twenty days after  
4 final payment is received, the release shall contain the certificate of title number and the date of  
5 the notation. The lien holder shall deliver the release (and certificate of title if held by him) to any  
6 county ~~register of deeds who~~ treasurer. The treasurer shall note the cancellation of the lien on  
7 the face of the certificate of title and on the same day shall notify the secretary, ~~who~~. The  
8 secretary shall cancel the lien on the state's computer system, if the county ~~register of deeds~~  
9 treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29, application  
10 for duplicate title may be forwarded along with the release to the department, ~~which~~. The  
11 department shall cancel the lien. For failure to comply with these provisions relating to releasing  
12 a lien, the lien holder shall be liable to the owner for all damages sustained by ~~him~~ the owner. The  
13 county ~~register of deeds~~ treasurer shall mail or deliver the certificate of title to the owner, or as  
14 otherwise directed by the owner. Upon the satisfaction of a security interest in a motor vehicle,  
15 trailer or semitrailer for which the certificate of title is in the possession of the owner, the secured  
16 party shall within twenty days after final payment is received, execute a release of security  
17 interest on the form prescribed by the department and mail or deliver such release to the owner  
18 or as otherwise directed by the owner.

19 Section 8. That § 32-3-45 be amended to read as follows:

20 32-3-45. The county ~~registers of deeds~~ treasurer shall charge a fee of five dollars for each  
21 notation of any lien on a certificate of title. No fee may be charged for the cancellation of such  
22 lien. The lien fee shall be accounted for in the same manner as other fees of their office.

23 Section 9. That § 32-3-46 be amended to read as follows:

24 32-3-46. Liens on motor vehicles, trailers, or semitrailers as defined in § 32-3-35 may be

1 enforced or foreclosed in accordance with the procedural law applicable to each kind of lien. It  
2 ~~shall~~ is not ~~be~~ necessary that a lien be filed for record as a condition precedent to foreclosure if  
3 ~~such~~ the lien has been duly noted on the certificate of the title of the motor vehicle, trailer, or  
4 semitrailer; ~~and any.~~ Any notice of sale, sale, or report of sale required by the applicable  
5 procedural law may be published, held, or filed in the county specified by ~~such~~ the law, or if not  
6 there specified, then in the county where a copy of the certificate of title is kept by the ~~register~~  
7 ~~of deeds~~ treasurer as provided by § 32-3-28. Further, if the lien holder verifies in writing that the  
8 owner of the collateral did not surrender the certificate of title, ~~such~~ the affidavit shall be  
9 accepted as prima facie evidence of the lien; and may be used in lieu of the certificate of title, and  
10 the certificate of title need not be surrendered at the time of foreclosure.

11 Section 10. That § 32-3-49 be amended to read as follows:

12 32-3-49. Upon cancellation of any certificate of title, the secretary shall notify the county  
13 ~~register of deeds~~ treasurer of the county where the duplicate certificate of title of the vehicle,  
14 trailer, or semitrailer is involved was kept. The ~~county register of deeds~~ treasurer shall thereupon  
15 enter the cancellation upon ~~his~~ the treasurer's records. The secretary shall also notify the person  
16 to whom the certificate of title was issued as well as any lien holder appearing thereon of the  
17 cancellation and shall demand the surrender of the certificate of title ~~but the.~~ However, the  
18 cancellation may not affect the validity of any lien noted thereon. The holder of the certificate  
19 shall return same to the secretary forthwith.

20 Section 11. That § 32-3A-45 be amended to read as follows:

21 32-3A-45. The county ~~register of deeds~~ treasurer, upon receipt of a lien or title instrument  
22 duly executed in the manner prescribed by law governing such instruments, together with the fee  
23 prescribed for notation thereof which is nonrefundable, shall notify the holder of the certificate  
24 of title to deliver to the ~~county register of deeds~~ treasurer, within fifteen days from the date of

1 notice, the certificate of title to permit notation of the lien, and if necessary, the issuance of a new  
2 certificate of title. After the notation of the lien, the ~~county register of deeds~~ treasurer shall  
3 deliver the certificate of title to the owner or as otherwise directed by the owner. The secured  
4 party shall be mailed or delivered notification of ~~his~~ the party's security interest as filed and noted  
5 on the certificate of title. ~~The~~ Any holder of the certificate of title who refuses to deliver the  
6 certificate of title to the ~~county register of deeds~~ treasurer for purposes of showing the lien on  
7 the certificate of title within fifteen days from the date notified to do so by the ~~county register~~  
8 ~~of deeds~~ treasurer is liable for damages to the lien holder for the amount of damage the lien  
9 holder suffered by reason of the holder of the certificate of title refusing to permit the showing  
10 of the lien on the certificate of title.

11 Section 12. That § 32-3A-46 be amended to read as follows:

12 32-3A-46. If a lien is discharged, the lien holder shall execute a release, ~~which shall contain~~  
13 ~~the certificate of title number and the date of the notation,~~ within twenty days after the final  
14 payment is received. The release shall contain the certificate of title number and the date of the  
15 notation. The lien holder shall deliver the release and certificate of title if held by ~~him~~ the lien  
16 holder to any county ~~register of deeds who~~ treasurer. The treasurer shall note the cancellation  
17 of the lien on the face of the certificate of title, and on the same day shall notify the secretary;  
18 ~~who.~~ The secretary shall cancel the lien on the state's computer system, if the ~~county register of~~  
19 ~~deeds~~ treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29,  
20 application for duplicate title may be forwarded along with the release to the department;  
21 ~~which.~~ The department shall cancel the lien. Upon the satisfaction of a security interest on a large  
22 boat for which the certificate of title is in the possession of the owner, the secured party shall  
23 within twenty days after final payment is received, execute a release of security interest on the  
24 form prescribed by the department and mail or deliver ~~such~~ the release to the owner or as

otherwise directed by the owner.

Section 13. That § 32-3A-48 be amended to read as follows:

32-3A-48. The ~~register of deeds and the~~ county treasurer shall assist in the administration of this chapter and perform such duties in connection therewith as may be required by the secretary.

Section 14. That § 32-4-8 be amended to read as follows:

32-4-8. No person may have in ~~his~~ possession any blank or partially executed "certificate of title and registration," "certificate of registration," "certificate of title," or other similarly styled form or document, whether genuine or counterfeit, of this or any other state or country, which is of a type that, when genuine and properly issued, evidences ownership of a vehicle under the laws of this or another state or country, and surrender of which is required in order to sell, transfer, register, or title a motor vehicle or trailer in this state.

Except, a person may possess such forms or documents if ~~he~~ the person is:

- (1) An employee of a manufacturer or printer of the form or document and possesses the form or document in the normal course of the business of design or manufacture in connection with bid invitation, bid, or contract with a government agency related to supplying the forms for governmental use;
- (2) An employee of a shipper or agency under whose direction the forms are being shipped or delivered to a state or local agency charged with receiving, distributing, or issuing the forms or documents, when they are in a container sealed under governmental direction;
- (3) An employee of a state agency who possesses the forms or documents in the course of carrying out ~~his~~ the employee's official duties;
- (4) A county treasurer or ~~register of deeds or their employees~~ any employee of the

1            treasurer whose official work duties require the handling of the forms or documents  
2            and ~~he~~ the treasurer or employee possesses them within the confines of the county's  
3            official storage space or immediately incidental to placing them in such places;

4            (5)    In possession of the form or document and it is prominently and indelibly marked on  
5            its face, either ~~"specimen," "void," or "sample."~~ specimen, void, or sample.

6            A violation of this section is a Class 6 felony.

7            Section 15. That § 32-3A-30 be amended to read as follows:

8            32-3A-30. A security interest created in this state in a large boat, and as defined by  
9            §§ 42-8-71 to 42-8-74, inclusive, and §§ 42-8-76 to 42-8-84, inclusive, on and after March 1,  
10          1992, is not perfected until the security interest is noted on the certificate of title. On or after  
11          July 1, 1993, a security interest created in this state on a large boat, as defined in § 42-8-2,  
12          exclusive of a motorboat is not perfected until the security interest is noted on the certificate of  
13          title. On or after July 1, 1994, a security interest created in this state on a large boat, as defined  
14          in § 42-8-2, is not perfected until the security interest is noted on the manufacturer's statement  
15          of origin, on the manufacturer's certificate of origin, or on the certificate of title. To perfect the  
16          security interest, a copy of the security agreement shall be presented along with the  
17          manufacturer's statement of origin, the manufacturer's certificate of origin, or the original title.  
18          The secretary of revenue, an agent of the secretary, the county treasurer, the register of deeds,  
19          or the seller, buyer, owner, or holder of the manufacturer's statement of origin, the  
20          manufacturer's certificate of origin, or the certificate of title shall note the security interest at any  
21          place on the manufacturer's statement of origin, the manufacturer's certificate of origin, or the  
22          certificate of title. If so noted, the lien is perfected against the creditors of the debtor, is valid  
23          against the creditors of the debtor, whether armed with process or not, and subsequent  
24          purchasers and other lien holders or claimants, but otherwise is not valid against them. The fee



1 for noting the lien is five dollars. The fees shall be credited to the county general fund. The  
2 certificate of title shall be presented to the county ~~register of deeds~~ treasurer if a lien is to be  
3 noted on an existing certificate of title.

4 The owner shall present the certificate of title to the county ~~register of deeds~~ treasurer when  
5 a release statement is filed.

6 Section 16. That § 32-3A-32 be amended to read as follows:

7 32-3A-32. The owner of a large boat not yet subject to the titling requirements of  
8 §§ 32-3A-20 to 32-3A-23, inclusive, and §§ 32-3A-24 to 32-3A-32, inclusive, may apply to the  
9 county treasurer of the owner's residence for a certificate of title for the large boat. If there are  
10 one or more liens on the large boat, the department shall note the liens on the certificate of title  
11 in order of their priority and shall deliver or mail the certificate of title to the owner or as  
12 otherwise directed by the owners.

13 Upon issuance of the certificate of title for the large boat, the large boat shall thereafter be  
14 subject to the requirements of §§ 32-3A-20 to 32-3A-23, inclusive, and §§ 32-3A-24 to  
15 32-3A-32, inclusive, as though the boat was required to be titled.

16 The owner shall present the certificate of title to the county ~~register of deeds~~ treasurer when  
17 a release statement is filed and a new or endorsed certificate shall be issued to the owner.